

Group III: Claims 41-53, drawn to a method of treating.

Applicant elects the invention of Group II, with traverse.

Applicant respectfully submits that the restriction requirement should be withdrawn. The Examiner states that the product of Group I can be made by another and materially different process, e.g., extracts of other plants or by organic synthetic methods. However, the products of Group I as claimed cannot be made using extracts of others plants because the product claims recite plant material "selected from the group consisting of *Glinus lotoides*, *Ruta chalepensis*, *Hagenia abyssinica*, and *Millettia ferruginea*." There is no way to make extracts of these plants using "extracts of other plants," as the Examiner has alleged. Additionally, organic synthetic methods would not produce the product as claimed (which is cast as an extract of plant material). If the Examiner has a technique for organically synthesizing the claimed plant extracts, he is invited to articulate that synthesis so that Applicant can articulate its response appropriately. Accordingly, Applicant respectfully requests that this restriction be withdrawn and that all claims be considered on the merits.

The Examiner has also required that Applicant elect a single species and indicate the claims readable thereon. Applicant elects the species *Hagenia abyssinica*, contacted with an organic solvent. This election, however, is made with traverse. Applicant submits that the appropriate and required procedure for the Examiner to follow in this situation is explained in MPEP § 803.02. To the extent that the Examiner intends to follow some different procedure (e.g., by holding

nonelected species within an otherwise allowable generic claim to be "withdrawn" from consideration), Applicant further traverses the Examiner's requirement.

Applicant does not believe that a requirement to elect the type of plant material (whether flowers, leaves, stems, or mixtures thereof) used is appropriate, because page 13 of the specification defines "plant material" to "include, without limitation, seeds, flowers, leaves and stems." To the extent that the Examiner is requiring such an election, Applicant elects, with traverse, plant material derived from the flowers of the plant. Applicant also does not believe that a requirement to elect the number of extracts of plant material (whether one, two, or more than two extracts) present in the composition prepared is appropriate, because once the extraction of *Hagenia abyssinica* is searched, any additional extracts of that plant added to the preparation would not require further search or impose any undue burden. To the extent that the Examiner is requiring such an election, Applicant elects, with traverse, compositions comprising one extract of plant material.

Applicant notes that claims 22, 28-40 are readable on the elected invention. The claimed methods are particularly described in the specification at pages 15-20.

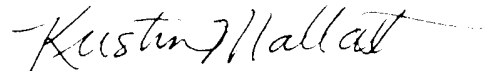
Applicant respectfully requests that the Examiner withdraw the requirement for restriction and treat all claims on the merits and render an early and favorable action on the merits.

RESPONSE TO RESTRICTION AND ELECTION REQUIREMENT  
U.S. Serial No.: 09 442,256  
Filed: November 17, 1999

Please charge any additional fees or credit any overpayment to Deposit Order

Account No. 11-0855.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kristin D. Mallatt".

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